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077809,921	12/06/91	SILVER	B 1801/60

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EXAMINER

LEWIS, R

ART UNIT	PAPER NUMBER
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3309

DATE MAILED:

07/13/92

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-16 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-16 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____ Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Claims 1-3 and 16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, a device for use with a breastpump is set forth in the preamble indicating that only the subcombination of the device is being claimed. Line 13, however, appears to contradict the preamble by setting forth the breastpump. The scope of applicant's claim is unclear as to whether the combination or the subcombination is being claimed.

In claim 2, it is unclear what the valve device has to do with the claimed subcombination.

In claim 16, again it is unclear as to whether applicant is claiming the combination or the subcombination.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wilson.

Wilson discloses a breast pump with collars 15 and 17 and sealable bag 13. In regard to claim 4 the outside of bag 13 may be written on. Anything could be written on.

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Claims 4-6,8-10,12,13, and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Yanase '104.

Claims 4-8,10-12 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Korn.

How applicant intends to use his bag imposes no structurally distinguishing limitations from the bag disclosed by Korn.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 2 is rejected under 35 U.S.C. § 103 as being unpatentable over Wilson in view of Larrison.

To have provided the Wilson pump with a check valve 15 in place of valve 31 would have been an obvious substitution of equivalent parts.

Claim 16 is rejected under 35 U.S.C. § 103 as being unpatentable over Wilson in view of Korn.

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To have provided the Wilson bag 13 with a tie as that disclosed by Korn so that the bag may be sealed would have been obvious to one of ordinary skill in the art.

Donleavy, Grimes, Friedman, Yanase '006, Herrington, and Hammond et al are made of record.

Any inquiry concerning this communication should be directed to Ralph Lewis at telephone number (703) 308-2214.

R. Lewis:lf
July 08, 1992


Ralph Lewis
AU 3309